

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: OFFICE OF CONSUMER ADVOCATE, Complainant, vs. VOICE VOX, Respondent.	DOCKET NO. FCU-04-59
--	----------------------

**ORDER DOCKETING FOR FORMAL PROCEEDING AND
SETTING DEADLINE FOR RESPONSE**

(Issued December 27, 2004)

On November 22, 2004, pursuant to Iowa Code §§ 476.103 and 476.3, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed with the Utilities Board (Board) a petition for a proceeding to consider a civil penalty for an alleged cramming violation committed by Voice Vox. Based upon the record assembled in the informal complaint proceedings, the events to date can be summarized as follows:

On October 19, 2004, Cheryl Stull of Ottumwa, Iowa, submitted a complaint to the Board alleging that her local phone bill included unauthorized charges for voice mail services submitted by Enhanced Services Billing, Inc. (ESBI), on behalf of Voice Vox. Ms. Stull noted in her complaint that when she contacted ESBI, she was told

that she had signed up for \$1,000 worth of free grocery coupons and at that same time had requested voice mail service.

Board staff identified the matter as C-04-235 and, pursuant to Board rules, on October 25, 2004, forwarded the complaint to Voice Vox at the address on file with the Board for response within ten days. Apparently, Voice Vox has not provided the Board with accurate contact information because the complaint was returned to the Board on November 9, 2004.

On November 12, 2004, Board staff issued a proposed resolution concluding that because Voice Vox failed to respond to the complaint, it violated the Board's rules by default. Staff directed Voice Vox to fully credit a total of \$29.90 in charges to Ms. Stull's account, to cancel any future charges, and to refrain from pursuing any collection action in relation to these charges. Staff mailed a notice of the proposed resolution to Voice Vox on November 12, 2004. It was returned to the Board on December 2, 2004.

In its November 22, 2004, petition, Consumer Advocate asserts the proposed resolution should be expanded to clarify that companies cannot escape civil penalties by ignoring allegations of violation. Consumer Advocate suggests that default cases are compelling ones for civil penalties because companies could choose the most egregious cases on which to default. Consumer Advocate also contends that credits alone will not stop unlawful practices and that civil penalties are necessary to ensure compliance and deter future violations.

The Board has reviewed the record to date and finds there is sufficient information to warrant further investigation into this matter. The Board will delay

establishing a procedure schedule and allow Voice Vox an opportunity to respond to the allegations raised in Consumer Advocate's petition. Also, because the complaint and proposed resolution sent to Voice Vox have been returned to the Board, the Board will direct ESBI to provide the Board with any contact information it has for Voice Vox.

IT IS THEREFORE ORDERED:

1. The "Petition for Proceeding to Consider Civil Penalty" filed by the Consumer Advocate Division of the Department of Justice on November 22, 2004, is granted. File C-04-235 is docketed for formal proceedings, identified as Docket No. FCU-04-59.

2. Voice Vox is directed to file a response to Consumer Advocate's petition on or before January 21, 2005.

3. Enhanced Services Billing, Inc., is directed to file with the Board the mailing address and any other contact information it has for Voice Vox. The information should be filed no later than January 7, 2005.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 27th day of December, 2004.